

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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:  
UNITED STATES OF AMERICA, :  
:  
v. : 16-CR-640 (DLI)  
:  
NORDLICHT, et al., : December 19, 2016  
:  
Defendant. : Brooklyn, New York  
:  
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TRANSCRIPT OF CRIMINAL CAUSE FOR ARRAIGNMENT  
BEFORE THE HONORABLE LOIS BLOOM  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: ROBERT CAPERS, ESQ.  
UNITED STATES ATTORNEY  
BY: WINSTON PAES, ESQ.  
ALICYN COOLEY, ESQ.  
ASSISTANT U.S. ATTORNEYS  
271 Cadman Plaza East  
Brooklyn, New York 11201

For the Defendant: JEFFREY BROWN, ESQ.  
MICHAEL SOMMER, ESQ.  
JOSH KLEIN, ESQ.  
KEVIN O'BRIEN, ESQ.  
SCOTT KLUGMAN, ESQ.

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Proceedings recorded by electronic sound recording,  
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1 THE CLERK: Criminal cause for arraignment  
2 on the indictment, U.S.A. v. Mark Nordlicht, David  
3 Levy, Uri Landesman, Joseph Sanfilippo, Joseph Mann and  
4 Daniel Small.

5 May I have counsel state your name for the  
6 record, starting with the government.

7 MR. PAES: Winston Paes, Alicyn Cooley,  
8 Lauren Elbert and Sarah Evans for the government. Good  
9 afternoon, your Honor.

10 MR. BROWN: Good afternoon, your Honor.  
11 Jeffrey Brown, Deckert LLP, for Mark Nordlicht.

12 MR. SOMMER: Good afternoon, your Honor.  
13 Michael Sommer, Wilson Sonsini, for David Levy.

14 MR. KLEIN: Good afternoon, your Honor.  
15 Josh Klein, Patrillo Klein & Boxer, on behalf of Uri  
16 Landesman, appearing for arraignment purposes only  
17 today.

18 MR. O'BRIEN: Kevin O'Brien, your Honor, of  
19 the firm Ford O'Brien, on behalf of Mr. Sanfilippo and  
20 Mr. Mann, for purposes of today.

21 MR. KLUGMAN: Good afternoon, your Honor.  
22 Scott Klugman and David Lismey (ph) for Daniel Small.

23 THE COURT: Good afternoon, Mr. Nordlicht,  
24 good afternoon, Mr. Levy, good afternoon, Mr.  
25 Landesman, good afternoon, Mr. Sanfilippo, good

1 afternoon, Mr. Mann, and good afternoon, Mr. Small.  
2 The purpose of today's proceeding is to make sure that  
3 you understand the nature of the charges being made  
4 against you by the United States of America and to make  
5 sure that you understand that you have certain  
6 constitutional rights.

7 First, you have the right to be represented  
8 by an attorney at today's proceeding and at all future  
9 proceedings before the Court. If you are unable to  
10 afford counsel, you may make an application to the  
11 Court and the Court will appoint counsel to represent  
12 you. All of you have retained counsel, the counsel  
13 that has noted their appearances on the record.

14 I will just say to Mr. Sanfilippo and Mr.  
15 Mann that it is in all likelihood that you should be  
16 represented by separate counsel. Mr. O'Brien has  
17 entered an appearance for the purposes of arraignment  
18 today. I believe one other person, Mr. Klein, said  
19 that he was representing for the purposes of  
20 arraignment today, is that correct?

21 MR. O'BRIEN: That's correct, your Honor.

22 MR. KLEIN: Yes, your Honor.

23 THE COURT: Yes?

24 MR. PAES: Your Honor, I just want to also  
25 add for the record, since you're raising this issue

1 now, the government obviously is going to have some  
2 objections with respect to certain conflicts of  
3 interest in this case. But for purposes of  
4 arraignment, we are prepared to proceed as currently  
5 represented.

6 THE COURT: Basically, I'm just making sure  
7 that you understand you have the right to counsel and  
8 that you have all retained counsel, some with the  
9 proviso that it may be only for today's proceeding and  
10 that you may retain different counsel in the future,  
11 but I'm making sure that you understand that you have  
12 the right to counsel and if you're unable to afford  
13 counsel, you'll make an application to the Court which  
14 the Court will consider for the appointment of counsel.

15 You have the right to remain silent. If  
16 you've started to make a statement, you may stop. Any  
17 statement that you make to anyone other than your  
18 attorney can be used against you. I'm going to do down  
19 the whole list of you.

20 Mr. Nordlicht, do you understand that you  
21 have the right to counsel and the right to remain  
22 silent, sir?

23 DEFENDANT NORDLICHT: Yes, your Honor.

24 THE COURT: Mr. Levy, do you understand you  
25 have the right to counsel and the right to remain

1     silent?

2                 DEFENDANT LEVY:   Yes.

3                 THE COURT:   Mr. Landesman, do you understand  
4     you have the right to counsel and the right to remain  
5     silent?

6                 DEFENDANT LANDESMAN:   Yes.

7                 THE COURT:   Mr. Sanfilippo, do you  
8     understand you have the right to counsel and the right  
9     to remain silent?

10                MR. SANFILIPPO:   Yes, your Honor.

11                THE COURT:   Mr. Mann, do you understand you  
12     have the right to counsel and the right to remain  
13     silent?

14                MR. MANN:   Yes, your Honor.

15                THE COURT:   Mr. Small, do you understand you  
16     have the right to counsel and the right to remain  
17     silent?

18                MR. SMALL:   Yes, your Honor.

19                THE COURT:   Starting with you, Mr.  
20     Nordlicht. Have you had the opportunity to review the  
21     indictment in this matter with your attorney?

22                DEFENDANT NORDLICHT:   I have, yes.

23                THE COURT:   Do you understand the charges  
24     that are being made against you?

25                DEFENDANT NORDLICHT:   Yes.

1           THE COURT: Mr. Brown, have you had the  
2 opportunity to review the indictment with your client?

3           MR. BROWN: We have, your Honor. We waive  
4 any public reading.

5           THE COURT: Is Mr. Nordlicht prepared to  
6 enter a plea today?

7           MR. BROWN: He is.

8           THE COURT: And the plea is?

9           DEFENDANT NORDLICHT: Not guilty.

10          THE COURT: A not guilty plea shall be  
11 entered on behalf of Mr. Mark Nordlicht to all counts  
12 in the indictment pertaining to him.

13          Mr. Levy, have you had the opportunity to  
14 review the indictment with your attorney?

15          DEFENDANT LEVY: Yes, your Honor.

16          THE COURT: Do you understand the charges  
17 that are being made against you?

18          DEFENDANT LEVY: Yes, your Honor.

19          THE COURT: Mr. Sommer, have you had the  
20 opportunity to review the indictment with your client?

21          MR. SOMMER: Yes, your Honor. We waive any  
22 public reading.

23          THE COURT: Is your client prepared to enter  
24 a plea today?

25          MR. SOMMER: He is.

1 THE COURT: And the plea is?

2 DEFENDANT LEVY: Not guilty.

3 THE COURT: Not guilty pleas shall be  
4 entered on behalf of David Levy to all counts in the  
5 indictment pertaining to him.

6 Mr. Landesman, have you had the opportunity  
7 to review the indictment with your attorney?

8 DEFENDANT LANDESMAN: I have.

9 THE COURT: Do you understand the charges  
10 that are being made?

11 DEFENDANT LANDESMAN: I do.

12 THE COURT: Mr. Klein, have you had the  
13 opportunity to review the indictment with your client?

14 MR. KLEIN: Yes, your Honor.

15 THE COURT: Do you believe he understands  
16 the charges?

17 MR. KLEIN: Yes, your Honor, and we waive  
18 its public reading.

19 THE COURT: Is Mr. Landesman prepared to  
20 enter a plea?

21 MR. KLEIN: He is.

22 THE COURT: And the plea is?

23 DEFENDANT LANDESMAN: Not guilty.

24 THE COURT: Not guilty pleas shall be  
25 entered on behalf of Uri Landesman to all charges made

1 against him in the indictment.

2 Mr. Sanfilippo, have you had an opportunity  
3 to review the indictment with your attorney?

4 DEFENDANT SANFILIPPO: I have, your Honor.

5 THE COURT: Do you understand the charges?

6 DEFENDANT SANFILIPPO: I do.

7 THE COURT: Mr. O'Brien, on behalf of Mr.  
8 Sanfilippo, have you had the opportunity to review the  
9 indictment with him?

10 MR. O'BRIEN: Yes, your Honor, we reviewed  
11 it together.

12 THE COURT: Do you believe he understands  
13 the charges?

14 MR. O'BRIEN: He does.

15 THE COURT: Do you waive the public reading?

16 MR. O'BRIEN: Yes, we waive.

17 THE COURT: Is your client prepared to enter  
18 a plea?

19 MR. O'BRIEN: Yes.

20 THE COURT: And the plea is?

21 DEFENDANT SANFILIPPO: Not guilty, your  
22 Honor.

23 THE COURT: Not guilty pleas shall be  
24 entered on behalf of Joseph Sanfilippo to all counts in  
25 the indictment pertaining to him.



1           Mr. Mann, have you had the opportunity to  
2 review the indictment with your attorney?

3           DEFENDANT MANN: Yes.

4           THE COURT: Do you understand the charges?

5           DEFENDANT MANN: Yes, your Honor.

6           THE COURT: Mr. O'Brien, have you had the  
7 opportunity to review the indictment with Mr. Mann?

8           MR. O'BRIEN: Yes, your Honor, we reviewed  
9 it.

10          THE COURT: Do you believe he understands  
11 the charges?

12          MR. O'BRIEN: He does.

13          THE COURT: Would you like me to read the  
14 indictment aloud?

15          MR. O'BRIEN: No, we waive the reading.

16          THE COURT: Is Mr. Mann prepared to enter a  
17 plea today?

18          MR. O'BRIEN: He is.

19          THE COURT: Mr. Mann, what is your plea?

20          DEFENDANT MANN: Not guilty, your Honor.

21          THE COURT: Not guilty pleas shall be  
22 entered on behalf of Joseph Mann to all counts in the  
23 indictment pertaining to him.

24          THE COURT: Mr. Small, have you had the  
25 opportunity to review the indictment with your

1 attorney?

2 DEFENDANT SMALL: Yes, your Honor.

3 THE COURT: Do you understand the charges  
4 that are being made against you?

5 DEFENDANT SMALL: Yes, I do.

6 THE COURT: Mr. Klugman, have you had the  
7 opportunity to review the indictment with your client?

8 MR. KLUGMAN: I have, your Honor.

9 THE COURT: Do you believe he understands  
10 the charges?

11 MR. KLUGMAN: I do.

12 THE COURT: Would you wish me to read the  
13 indictment aloud?

14 MR. KLUGMAN: We waive public reading, your  
15 Honor.

16 THE COURT: Is your client prepared to enter  
17 a plea today?

18 MR. KLUGMAN: He is, your Honor.

19 THE COURT: And that plea is, Mr. Small?

20 DEFENDANT SMALL: Not guilty, your Honor.

21 THE COURT: Not guilty pleas shall be  
22 entered on behalf of Daniel Small to all counts in the  
23 indictment pertaining to him.

24 I've been presented with an application and  
25 order seeking to exclude the time between today and

1 January 12<sup>th</sup>, 2017 from the computation of the time  
2 period within which a trial on the charges against you  
3 defendants must commence. This is an application  
4 that's being made in each of these cases. So although  
5 I trust that you discussed this matter with your  
6 attorneys, I need to make sure for myself that you  
7 understand the nature of this request and its  
8 consequences.

9           So permit me to inform you that the  
10 government has 70 days from the date that you are  
11 arraigned on the indictment, which is what we just  
12 finished when we entered your not guilty plea -- the  
13 government has 70 days to commence the trial against  
14 you in this matter. If the government does not  
15 commence the trial within 70 days, your attorney can  
16 come into the Court and ask that the charges against  
17 you be dismissed as a violation of your rights under  
18 the Speedy Trial Act.

19           This application is stopping that 70-day  
20 Speedy Trial Act clock today and will not start that  
21 clock to count the 70 days until January 12<sup>th</sup>, 2017. I  
22 believe, but please tell me if I am correct, that that  
23 is the date that has been set by the Honorable Dora  
24 Irizzary, who is the chief judge who will be overseeing  
25 this matter and is the assigned district judge to try

1 this case. She's also the chief judge in this  
2 district. I believe that's the date that she has given  
3 you for the next conference.

4 Is that correct?

5 MR. PAES: That is correct, your Honor.

6 THE COURT: Has this application that you're  
7 making to the duty magistrate been run by Judge  
8 Irizarry's chambers?

9 MR. PAES: We have, your Honor.

10 THE COURT: Very good.

11 Then I'm going to start again with you, Mr.  
12 Nordlicht. Mr. Nordlicht, do you understand this  
13 application and its consequences?

14 DEFENDANT NORDLICHT: Yes, your Honor.

15 THE COURT: Have you discussed this matter  
16 with your attorney?

17 DEFENDANT NORDLICHT: Yes.

18 THE COURT: Do you have any questions for  
19 the Court regarding this exclusion of time from the  
20 Speedy Trial Act?

21 DEFENDANT NORDLICHT: No.

22 THE COURT: Ms. Yuen (ph), can you present  
23 this to Mr. Nordlicht?

24 Mr. Nordlicht, is this your signature on  
25 this order?

1 DEFENDANT NORDLICHT: It is, your Honor.

2 THE COURT: Thank you.

3 Mr. Levy, have you discussed this exclusion  
4 of time with your attorney?

5 DEFENDANT LEVY: Yes, your Honor.

6 THE COURT: Do you understand the  
7 consequences of this request?

8 DEFENDANT LEVY: Yes.

9 THE COURT: Do you have any questions for me  
10 regarding this exclusion of time?

11 DEFENDANT LEVY: No, your Honor.

12 THE COURT: I'll ask that this be presented  
13 to Mr. Levy.

14 Is that your signature, sir?

15 DEFENDANT LEVY: Yes, your Honor.

16 THE COURT: Thank you.

17 Mr. Landesman, have you discussed this  
18 matter with your attorney?

19 DEFENDANT LANDESMAN: I have.

20 THE COURT: Do you have any questions for  
21 the Court regarding this exclusion?

22 DEFENDANT LANDESMAN: I do not.

23 THE COURT: Mr. Landesman, is this your  
24 signature on the form?

25 DEFENDANT LANDESMAN: It is.

1 THE COURT: Thank you.

2 Mr. Sanfilippo, have you discussed this  
3 exclusion of time with your attorney?

4 DEFENDANT SANFILIPPO: I have, your Honor.

5 THE COURT: Do you understand this exclusion  
6 and its consequences?

7 DEFENDANT SANFILIPPO: I do.

8 THE COURT: Do you have any questions for  
9 the Court regarding this exclusion of time?

10 DEFENDANT SANFILIPPO: I do not.

11 THE COURT: Can you pass this to Mr.  
12 Sanfilippo?

13 Is this your signature, sir, on this form?

14 DEFENDANT SANFILIPPO: Yes, it is, your  
15 Honor.

16 THE COURT: Mr. Mann, have you discussed  
17 this matter with your attorney?

18 DEFENDANT MANN: Yes, your Honor.

19 THE COURT: Do you have any questions for  
20 the Court regarding the exclusion of time?

21 DEFENDANT MANN: No, your Honor.

22 THE COURT: Is this your signature on this  
23 form?

24 DEFENDANT MANN: Yes, it is.

25 THE COURT: Do you understand the

1 consequences of this exclusion?

2 DEFENDANT MANN: Yes, your Honor.

3 THE COURT: Thank you.

4 Mr. Small, have you discussed the exclusion  
5 of time with your attorney?

6 DEFENDANT SMALL: Yes, your Honor.

7 THE COURT: Do you understand the exclusion  
8 of time and its consequences?

9 DEFENDANT SMALL: Yes, I do.

10 THE COURT: Do you have any questions for  
11 the Court regarding this exclusion of time?

12 DEFENDANT SMALL: No, your Honor.

13 THE COURT: Ms. Yuen, can I ask you to  
14 present this?

15 THE CLERK: Yes.

16 THE COURT: Is this your signature?

17 DEFENDANT SMALL: Yes, it is.

18 THE COURT: Thank you very much, Mr. Small.

19 What is the basis for the exclusion of time?

20 MR. PAES: Sure, your Honor. Your Honor,

21 it's a complex case, as I think is somewhat evident

22 from the indictment itself. There's also an enormous

23 amount of discovery in this case, in excess of five

24 terabytes of data that's going to be produced to the

25 defendants shortly and on a rolling basis. So in light

1 of all of that, the complexity of the charges as well  
2 as the amount of discovery in this case, we believe an  
3 exclusion of time is appropriate to allow the  
4 defendants time to go over the discovery and make a  
5 decision on how to proceed.

6 THE COURT: Mr. Brown, do you agree with the  
7 government's version of why the exclusion of time is  
8 necessary?

9 MR. BROWN: We do, and we consent, your  
10 Honor.

11 THE COURT: Thank you.

12 Mr. Sommer, do you agree?

13 MR. SOMMER: Yes, your Honor.

14 THE COURT: Mr. Klein, do you agree?

15 MR. KLEIN: Yes, your Honor.

16 THE COURT: Mr. O'Brien, on behalf of the  
17 two men you're standing up for today, do you agree?

18 MR. O'BRIEN: We agree, your Honor.

19 THE COURT: Mr. Klugman, on behalf of Mr.  
20 Small, do you agree?

21 MR. KLUGMAN: Yes, your Honor.

22 THE COURT: The for the reasons stated on  
23 the record, the Court grants this exclusion of time and  
24 excludes the time between today and January 12<sup>th</sup>, 2017,  
25 where Judge Irizarry will be holding a conference on



1 that date in her courtroom at 11:00 a.m.

2 I have been presented with orders setting  
3 conditions of release on bond for all of the defendants  
4 except for Mr. Small, but we will hear your  
5 application. I'm going to work through them one at a  
6 time. I imagine some of them are similar.

7 So why don't you give me a rundown, Mr.  
8 Paes, of how you arrived at these bond conditions. I  
9 do note that I have reviewed the Pretrial Services  
10 reports and I do believe that all of these defendants  
11 have no criminal record, is that correct?

12 MR. PAES: That is correct, your Honor.

13 THE COURT: A number of them I believe  
14 you're asking for there to be collateral put up for  
15 their release, some of them cash bond, some of them  
16 properties, is that correct?

17 MR. PAES: That is correct, your Honor.

18 THE COURT: Why don't you give me the  
19 overview and then we'll work our way through each bond.

20 MR. PAES: Sure, your Honor. I think in  
21 terms of the defendants, we have ranged the total  
22 amount of bond ranging from five million dollars to one  
23 million dollars. That is based on part of the level of  
24 culpability as well as looking at the resources they  
25 have available. And considering the fact that there's

1 obviously a flight risk, like in every case where you  
2 have defendants who have resources as well as ties in  
3 this case to foreign countries --

4 THE COURT: So let me ask, have the  
5 passports been brought to courthouse today?

6 MR. PAES: They have, your Honor. The agent  
7 has them and is ready -- with the exception of one of  
8 them -- Mr. Sanfilippo I believe does not have a  
9 passport. There's another defendant, I believe Mr.  
10 Landesman, if I'm correct, who we've agreed will  
11 surrender his passport over the next day or two that  
12 they haven't collected. But everybody else's passports  
13 Agent Minsky (ph) has and he can turn them over to  
14 Pretrial Services.

15 THE COURT: So that's going to be required  
16 before any bail is granted, that the Pretrial Services  
17 officer will hold the passport until the time that  
18 these charges have been adjudicated. They will give  
19 you a receipt for the passport. Mr. Sanfilippo is the  
20 only one who doesn't have a passport but nobody is  
21 allowed to apply for any passport while this matter is  
22 pending.

23 Mr. Landesman, yours is at home, sir?

24 DEFENDANT LANDESMAN: Uh-huh.

25 THE COURT: You're going to have to make

1 your way back to the courthouse by tomorrow if you're  
2 released, to turn over the passport. Do you  
3 understand?

4 DEFENDANT LANDESMAN: To this courthouse?

5 THE COURT: To this courthouse.

6 MR. KLEIN: Your Honor, we're going to  
7 obtain the passport and turn it over.

8 THE COURT: When he's saying this  
9 courthouse, I don't know which other courthouse he was  
10 thinking.

11 DEFENDANT LANDESMAN: There are plenty of  
12 courthouses in New York. I don't know.

13 THE COURT: You'll get your passport to this  
14 Pretrial Services office.

15 DEFENDANT LANDESMAN: He'll take care of it.

16 THE COURT: And they will give you a  
17 receipt.

18 With that being said, I do believe that the  
19 initial conditions at the top are the same for  
20 everybody, is that correct, meaning that there is going  
21 to be a bond, it's going to be a different amount, but  
22 everybody is restricted in their travel. You've given  
23 some people Southern/Eastern District and some people  
24 Southern/Eastern District and New Jersey and some  
25 Southern/Eastern District and District of Maryland with

1 prior notice.

2 MR. PAES: That is correct, your Honor.  
3 We've done that in the case of New Jersey to  
4 accommodate I believe family visits. With respect to  
5 Maryland, I believe a work issue. So we've talked to  
6 defense counsel and tried to accommodate requests that  
7 we believed were reasonable and yet still protect the  
8 government's interest in terms of any risk of flight  
9 issues.

10 THE COURT: I believe that Mr. Klein had  
11 another issue so if you can let me know what that is.

12 MR. PAES: And we wanted to add as well the  
13 District of New Jersey for Mr. Landesman.

14 MR. KLEIN: Thank you.

15 THE COURT: It says for Mr. Landesman  
16 District of Maryland with prior notice to Pretrial. So  
17 you want it to be Southern/Eastern District, New Jersey  
18 and District of Maryland with prior notice to Pretrial?

19 MR. KLEIN: Yes, your Honor.

20 MR. PAES: That's fine.

21 THE COURT: Is there any objection from the  
22 government?

23 MR. PAES: No, your Honor.

24 THE COURT: So on Mr. Landesman, I'm going  
25 to add New Jersey.

1                   We're starting with Mr. Nordlicht. Mr.  
2 Nordlicht, this bond is a five-million-dollar bond.  
3 It's going to be signed by just Mr. Nordlicht and his  
4 wife, is that correct?

5                   MR. BROWN: The defendant's father's  
6 signature is on the bond as well, your Honor.

7                   THE COURT: I need whoever is signing the  
8 bond to come before me, so I'm going to need to see  
9 everybody in the courtroom, but wait one moment. So  
10 it's his dad and his wife who are signing the bond?

11                  MR. BROWN: Correct.

12                  THE COURT: And it's \$500,000 cash put into  
13 the Court's registry, is that correct?

14                  MR. PAES: That is correct, your Honor.

15                  THE COURT: But there's no property being  
16 posted.

17                  MR. PAES: No, your Honor.

18                  THE COURT: As far as Pretrial, he'll be  
19 placed under the express supervision of Pretrial and he  
20 is subject to random visits by Pretrial and he must  
21 report to Pretrial as directed, is that correct?

22                  MR. PAES: That is correct, your Honor.

23                  THE COURT: Okay. Those are the only other  
24 conditions?

25                  MR. PAES: Yes, your Honor.

1 THE COURT: And the \$500,000 is going to be  
2 posted by when?

3 MR. PAES: It's my understanding that  
4 they're prepared to post it as soon as your Honor signs  
5 the order.

6 THE COURT: So they will go downstairs and  
7 post it with the clerk's office today.

8 MR. PAES: Correct.

9 THE COURT: Before Mr. Nordlicht is  
10 released.

11 MR. BROWN: Correct.

12 THE COURT: So can I ask that his wife and  
13 his father please come forward? Because Mr. Nordlicht  
14 is going to have to make way and I have to see his  
15 father, if we could just have a path, thank you.

16 Come on up, sir.

17 THE CLERK: The judge will ask you both some  
18 questions on the record so I just need to affirm you,  
19 okay?

20 (Sureties are sworn.)

21 THE CLERK: Can you just state your name for  
22 the record?

23 MS. KALTER: Talia Kalter (ph).

24 THE CLERK: Thank you.

25 Sir, your name for the record?

1 MR. NORDLICHT: Jules Nordlicht.

2 THE COURT: Ms. Kalter and Mr. Nordlicht,

3 I'm sorry for the circumstances that bring you to the

4 courthouse today. As you've been made aware, your

5 husband, your son has been charged with a very serious

6 federal crime. In order for him to be released pending

7 his trial on these charges, he has asked both of you to

8 come forward to sign on this bond.

9 In federal court, a bond is a promise. If

10 for any reason, Mr. Nordlicht does not live up to his

11 obligation, in other words he does not come back to

12 court when he's directed to do so, the two of you will

13 have executed this bond. It's a five-million-dollar

14 promise. The government will be able to go after you

15 in any combination, in any order, to get the full

16 amount of the bond.

17 Mr. Nordlicht, I understand you're Mark

18 Nordlicht's father, correct?

19 MR. NORDLICHT: Correct.

20 THE COURT: Are you still working, sir?

21 MR. NORDLICHT: No.

22 THE COURT: What did you do before you

23 stopped working?

24 MR. NORDLICHT: I was a commodities broker.

25 THE COURT: Mr. Nordlicht, you understand

1     that this is a five-million-dollar obligation, sir.

2                 MR. NORDLICHT:    Yes.

3                 THE COURT:    Again, you're not posting your  
4     property but if you own your premises, they could go  
5     after anything you own, even if you encouraged your son  
6     to come to the courthouse.  If he fails to live up to  
7     his obligations, the government will have your  
8     signature on this page and be able to go after you for  
9     the full amount.

10                Do you understand that?

11                MR. NORDLICHT:   I do.

12                THE COURT:    Ms. Kalter, this is your  
13     husband?

14                MS. KALTER:   Yes.

15                THE COURT:    I read in the Pretrial Services  
16     report that you're an attorney, ma'am.

17                MS. KALTER:   Yes.

18                THE COURT:    And that you work with your  
19     father.

20                MS. KALTER:   Yes.

21                THE COURT:    So you're now supporting the  
22     family?

23                MS. KALTER:   I suppose, I don't know.

24                THE COURT:    Do you understand that this is a  
25     five-million-dollar obligation?



1 MS. KALTER: Yes, I do.

2 THE COURT: That if for any reason Mr.  
3 Nordlicht does not live up to his obligations, that  
4 they will be able to go after you for the full amount  
5 of this bond?

6 MS. KALTER: Yes, I do.

7 THE COURT: Can I pass this forward and get  
8 you to both tell me -- who lives on Trainor Drive?  
9 That's you, Ms. Kalter?

10 MS. KALTER: yes.

11 THE COURT: And you live on Beach Street in  
12 Long Beach, sir?

13 MR. NORDLICHT: Yes.

14 THE COURT: So I'll ask because I would not  
15 know your signatures. Ms. Kalter, is this your  
16 signature on the bond?

17 MS. KALTER: Yes, it is.

18 THE COURT: Is that your signature, Mr.  
19 Nordlicht?

20 MR. NORDLICHT: Yes.

21 THE COURT: You boh want to be suretors on  
22 this bond?

23 MS. KALTER: Yes.

24 THE COURT: Mr. Nordlicht?

25 MR. NORDLICHT: Yes.

1           THE COURT: Then thank you very much. You  
2 can both be seated.

3           Again, this is a five-million-dollar bond.  
4 Mr. Nordlicht shall stay in the Southern/Eastern  
5 Districts of New York, which your attorney will be able  
6 to tell you what that means, and you may go to the  
7 District of New Jersey without court permission. If  
8 for any reason you need to go anywhere else, and I'm  
9 saying somebody in Connecticut got ill suddenly, you  
10 need the Court's permission.

11           Do you understand that, Mr. Nordlicht?

12           DEFENDANT NORDLICHT: Yes.

13           THE COURT: And that you shall avoid contact  
14 with any of the codefendants except in the presence of  
15 counsel. You must also avoid all contact and not  
16 associate with any investors other than at the  
17 direction of any liquidator, trustee or monitor.

18           Do you understand that?

19           DEFENDANT NORDLICHT: Yes.

20           THE COURT: And that you will go or somebody  
21 will go and deposit \$500,000 into the court registry as  
22 cash before you are released here today.

23           Do you understand that?

24           DEFENDANT NORDLICHT: Yes.

25           THE COURT: And that you are placed under

1 the express supervision of Pretrial Services. You're  
2 subject to random visits by Pretrial Services and you  
3 must report to Pretrial Services as directed.

4 Do you understand that?

5 DEFENDANT NORDLICHT: Yes.

6 THE COURT: And that you will surrender your  
7 passport today.

8 The agents are saying they have Mr.  
9 Nordlicht's passport?

10 MR. PAES: That is correct, your Honor.

11 THE COURT: So it will be given to Pretrial  
12 Services today.

13 MR. PAES: Yes, your Honor. In fact --

14 THE COURT: Mr. Nordlicht's attorney will  
15 have a receipt for that passport. I assume that you  
16 have just sent a family member down to deposit the  
17 \$500,000. Is that correct or not yet?

18 MR. BROWN: I think until we have the order  
19 signed by your Honor, we're not able to make the  
20 deposit.

21 THE COURT: Can I have the cash deposit slip  
22 for Mr. Nordlicht?

23 THE CLERK: Yes, it's right here.

24 THE COURT: Because I'm going to wait to  
25 sign the bond until I'm told that it's been deposited.

1 Now this can be given to whoever is going to go make  
2 the deposit.

3 MR. PAES: Your Honor, for the record, I  
4 just turned over the passport for Mr. Nordlicht to  
5 Pretrial Services.

6 THE CLERK: Yes, Pretrial has it.

7 THE COURT: You'll get a receipt for that,  
8 Mr. Nordlicht.

9 Was there anything else with respect to Mr.  
10 Nordlicht?

11 MR. PAES: No, your Honor.

12 THE COURT: As soon as I hear that the cash  
13 has been deposited, I'll sign the bond. Mr. Nordlicht,  
14 you'll live up to the obligations and set up whatever  
15 the schedule is with Pretrial Services.

16 Was there something else that needed to be  
17 addressed, Mr. Brown?

18 MR. BROWN: Yes, Judge, with your  
19 permission. In order for Mr. Nordlicht to make some  
20 religious obligations that he hasn't been able to make  
21 in light of security concerns that were expressed by  
22 the marshals, I'd ask for him to be excused into the  
23 cell block to expedite his departure. But I'm also due  
24 in front of Judge Matsumoto sort of immediately on a  
25 parallel proceeding. So with your permission --

1           THE COURT: So this is what I will do. I  
2 will sign this order. Have them start processing.  
3 Again, Marshals, if you could check back with me just  
4 to make sure that we have the bond signed, that the  
5 cash was surrendered. How is that?

6           MARSHAL: If you want to wait, we can wait  
7 him in the cell block until they come back up with the  
8 paperwork. Once we have it, we can discharge him.  
9 Ultimately, it's up to the agents to discharge him at  
10 this point. He's not in our custody, he's in the  
11 agents' custody.

12          THE COURT: So he'll be held up here until  
13 the agents discharge him.

14          Agents, you don't have a problem with them  
15 holding him back there until he's discharged, is that  
16 correct? Okay.

17          MR. PAES: That's fine, your Honor.

18          THE COURT: Mr. Nordlicht and Mr. Brown,  
19 you're free to go to Judge Matsumoto and he's able to  
20 be taken into the cell block until the time that the  
21 cash is surrendered. Thank you.

22          MR. BROWN: Thank you.

23          THE COURT: Mr. Levy, this is a two-million-  
24 dollar bond and you must remain in the Southern  
25 District of New York, the Eastern District of New York

1 and the District of New Jersey. Like Mr. Nordlicht,  
2 you cannot speak with any of the codefendants except in  
3 the presence of counsel. You are to avoid all contact  
4 and not associate with any investor other than at the  
5 direction of any liquidator, trustee or monitor.

6 Do you understand that?

7 DEFENDANT LEVY: Yes, your Honor.

8 THE COURT: The passport of Mr. Levy shall  
9 be surrendered. Is that being done by the agent?

10 MR. PAES: That is correct, your Honor. I'm  
11 giving it right now to Pretrial Services.

12 THE COURT: Thank you.

13 You shall not apply for any other passport.  
14 You're placed under the express supervision of Pretrial  
15 Services, subject to random visits by Pretrial Services  
16 and must report to that agency as directed.

17 Do you understand that?

18 DEFENDANT LEVY: Yes, your Honor.

19 THE COURT: The two people that are signing  
20 for you are Isaac Levy and Michael Levy. Are they in  
21 court? Thank you. Can I have the deputy swear them  
22 please?

23 (Sureties are sworn.)

24 THE CLERK: State your name for the record.

25 MR. MICHAEL LEVY: Michael Levy.

1 THE CLERK: Thank you.

2 MR. ISAAC LEVY: Isaac Levy.

3 THE CLERK: Thank you very much.

4 THE COURT: Mr. and Mr. Levy, I'm sorry  
5 again for the circumstances that bring you to the  
6 Courthouse today. As you understand, David Levy has  
7 been charged with a serious federal crime and in order  
8 for him to be released on bond, he has asked you to  
9 come sign this order setting the conditions of release  
10 on bond. You've heard what the conditions are. It is  
11 a two-million-dollar bond and you are required to  
12 deposit \$200,000 into the registry of the Court before  
13 he will be released.

14 MR. SOMMER: Your Honor, I'm sorry to  
15 interrupt.

16 THE COURT: Yes.

17 MR. SOMMER: My understanding of my  
18 discussions with the government is -- they've seen our  
19 bank check for \$200,000. My understanding is they have  
20 agreed to have your Honor sign the bail order and then  
21 we can bring the check downstairs.

22 THE COURT: Is that correct?

23 MR. PAES: That is correct, your Honor.

24 THE COURT: Very good.

25 Mr. Levy, I assume you're David Levy's

1 father.

2 MR. ISAAC LEVY: Yes, ma'am.

3 THE COURT: And I assume, Mr. Michael Levy,  
4 you're his brother?

5 MR. MICHAEL LEVY: Yes.

6 THE COURT: Older brother or younger  
7 brother?

8 MR. MICHAEL LEVY: Younger brother, your  
9 Honor.

10 THE COURT: Younger brother.

11 MR. MICHAEL LEVY: Yes.

12 THE COURT: And here you're coming to sign  
13 on his bond.

14 MR. MICHAEL LEVY: Absolutely, your Honor.

15 THE COURT: What do you do for a living,  
16 sir?

17 MR. MICHAEL LEVY: Software developer.

18 THE COURT: Mr. Levy, Senior, what do you do  
19 for a living?

20 MR. ISAAC LEVY: I was in healthcare for  
21 many years and now I do various businesses and business  
22 consulting.

23 THE COURT: You understand that if for any  
24 reason, Mr. David Levy does not report as he is  
25 directed or if he violates any conditions set forth in



1 this order, that the full amount of the bond, two  
2 million dollars, will be due to the government. And  
3 even if you've urged him to do everything he's supposed  
4 to, if for any reason he gets scared, he tries to run,  
5 not only will they find him and bring him back to  
6 court, but at that point, he will likely not be  
7 released again and you'll be on the hook for the full  
8 amount of the bond.

9 MR. ISAAC LEVY: Yes, ma'am.

10 THE COURT: Do you still want to sign the  
11 bond?

12 MR. ISAAC LEVY: Yes, your Honor.

13 THE COURT: Mr. Paes, make sure I don't let  
14 Mr. Nordlicht go. I did not give him his bail  
15 warnings. So when he comes back in, I must give the  
16 bail warnings before he's released, okay?

17 MR. PAES: Sure.

18 THE COURT: Thank you. I'll pass this  
19 forward.

20 MR. ISAAC LEVY: Yes, your Honor. Yes,  
21 that's my signature.

22 MR. MICHAEL LEVY: Yes, that's my signature.

23 THE COURT: Thank you very much. Then you  
24 may be seated.

25 MR. ISAAC LEVY: Thank you, your Honor.

1 THE COURT: I'm going to wait until I get to  
2 the end so I can give everybody their bail warnings at  
3 one time.

4 Mr. Mann.

5 MR. SOMMER: Your Honor, in that  
6 circumstance --

7 THE COURT: Yes.

8 MR. SOMMER: Can Mr. Levy be free to go back  
9 to the cell block so he also can perform a religious  
10 service?

11 THE COURT: As long as he's coming back  
12 before me so I can give the bail warnings, that's fine  
13 with me.

14 MR. SOMMER: Thank you.

15 MR. O'BRIEN: Your Honor, may I briefly be  
16 heard? I apologize.

17 THE COURT: Certainly.

18 MR. O'BRIEN: Mr. Mann, my client, also has  
19 the same religious observance.

20 THE COURT: I wish everybody was more  
21 religious before the case was brought than now.

22 MR. O'BRIEN: Understood, but he's made the  
23 request to follow Mr. Levy for just a couple of minutes  
24 and then return to court, which should be before his  
25 turn comes.

1 THE COURT: As long as the agents have no  
2 problem with him being brought back when it's his turn,  
3 I will release him for the purposes of his religious  
4 service.

5 MR. O'BRIEN: Thank you, your Honor.

6 THE COURT: Mr. Mann, you can go back and  
7 you'll be returned before it's your turn.

8 DEFENDANT MANN: Thank you.

9 THE COURT: Here is the cash bond for Mr.  
10 Levy's family to post.

11 MR. SOMMER: Perfect. I can go take care of  
12 that right now.

13 THE COURT: Okay.

14 MR. SOMMER: Thank you.

15 THE COURT: Mr. Landesman, this is a two-  
16 million-dollar bond. It requires you to stay in the  
17 Southern District, the Eastern District, New Jersey and  
18 the District of Maryland, but you have to give prior  
19 notice to Pretrial and the government.

20 Do you understand that?

21 DEFENDANT LANDESMAN: Understood.

22 THE COURT: You shall avoid contact with all  
23 the codefendants except in the presence of counsel.  
24 You shall avoid and not associate with any investors.

25 Do you understand that?

1 DEFENDANT LANDESMAN: Uh-huh.

2 THE COURT: I need a yes or no, sir.

3 DEFENDANT LANDESMAN: Yes.

4 THE COURT: Thank you. You shall surrender  
5 your passport. Yours is the one that will be  
6 surrendered by tomorrow so I'm going to change it to  
7 12/20. It was written as 12/19.

8 Is that correct, Mr. Landesman?

9 DEFENDANT LANDESMAN: Yes.

10 THE COURT: You'll surrender it by tomorrow.

11 DEFENDANT LANDESMAN: Correct.

12 THE COURT: You're placed under the express  
13 supervision of Pretrial Services. You're subject to  
14 visits at your home or place of work and you must  
15 report to Pretrial Services as directed.

16 Do you understand that?

17 DEFENDANT LANDESMAN: I understand.

18 THE COURT: Can I please have Ms. Grayson --  
19 oh, it's to sign by Wednesday. And Dr. Royceman to  
20 sign by Wednesday.

21 MR. KLEIN: That's correct.

22 THE COURT: So nobody is here today?

23 MR. KLEIN: They're not here today, your  
24 Honor.

25 THE COURT: What about the \$100,000 cash to

1 be posted?

2 MR. KLEIN: We have to post that by  
3 Wednesday as well. To the extent that we're able to do  
4 it tomorrow, we'll do it tomorrow but certainly by  
5 Wednesday.

6 THE COURT: And there's no objection to him  
7 being released pending the signature of the two  
8 suretors?

9 MR. PAES: No, your Honor. In light of the  
10 health conditions that Mr. Landesman has, we believe he  
11 is a little bit less of a flight risk. Hence we're  
12 willing to agree to that modification.

13 THE COURT: Who is Devora Grayson and Dr.  
14 Royceman?

15 DEFENDANT LANDESMAN: Devora Grayson is my  
16 younger sister. Mark Royceman is a friend and  
17 emergency contact in general.

18 THE COURT: Okay. You know that they're  
19 both aware of what these conditions are?

20 DEFENDANT LANDESMAN: I haven't had a chance  
21 to speak to them personally but I assume they are  
22 aware. If not, they will be made aware.

23 THE COURT: And you believe that they will  
24 come down by Wednesday to sign this bond.

25 MR. KLEIN: Your Honor, it's my

1 understanding that we could make arrangements, if the  
2 Court permits, for them to sign -- Ms. Grayson lives in  
3 Silver Springs, Maryland, so we would like to make  
4 arrangements for her to sign in a Maryland court.

5 THE COURT: That's not a problem but the  
6 person from New Rochelle can make it here.

7 MR. KLEIN: Could that person sign in White  
8 Plains or would they have to --

9 THE COURT: It's possible. My problem with  
10 that is, I don't know what they're going to tell these  
11 people when they sign the bond. The concern is always,  
12 do they understand. You're also posting \$100,000 at  
13 the same time. Generally, we have the suretor present  
14 themselves, unless they're out of state. People  
15 regularly come from out in the far reaches of Long  
16 Island to this court, even though there's an Islip  
17 courthouse.

18 MR. KLEIN: I understand, your Honor. I  
19 believe Dr. Royceman works in Connecticut and he lives  
20 in Westchester. I will communicate -- let me check  
21 with him, if I may.

22 THE COURT: Mr. Paes?

23 MR. PAES: Your Honor, we think he should be  
24 able to come here. I think we had talked about the  
25 option of doing it. But in light of the fact that we

1 have one defendant, I don't think it's a huge  
2 inconvenience.

3 THE COURT: But he is a doctor and this is a  
4 holiday week. He may not have notice. I don't want to  
5 set this up to fail.

6 MR. PAES: Correct.

7 THE COURT: I certainly want the money to be  
8 posted and I certainly want to know that he understands  
9 the obligations. But if you don't have an objection,  
10 I'm not going to require him to come here. It's just  
11 this is unusual. You're letting somebody out on a two-  
12 million-dollar bond without anybody signing, and we  
13 don't have a passport.

14 MR. PAES: I understand, your Honor, and I  
15 think we made this exception in light of the ailments  
16 that Mr. Landesman has at this point in time. We had  
17 talked about obviously the doctor showing up in  
18 Brooklyn to sign it. They've given us the same  
19 explanation and we figured if he can go tomorrow to  
20 White Plains and sign it, that that would be acceptable  
21 but, obviously, we defer to the Court. If the Court  
22 feels --

23 THE COURT: I'm not going to object to him  
24 going tomorrow. I want somebody's signature on the  
25 bond other than Mr. Landesman.

1 MR. KLEIN: I'm sorry, is your Honor --

2 THE COURT: The \$100,000 was supposed to be  
3 posted by Wednesday, the signatures are supposed to be  
4 by Wednesday.

5 MR. KLEIN: Right.

6 THE COURT: And you are also going to get  
7 the passport but that's by tomorrow.

8 MR. KLEIN: Understood.

9 THE COURT: Okay. So I will leave it to you  
10 to make arrangements with Ms. Yuen, who would have to  
11 fax this bond to the proper courthouse. Once you speak  
12 to Dr. Royceman, we know that Ms. Grayson isn't going  
13 to come here from Maryland.

14 MR. KLEIN: Right.

15 THE COURT: But if Dr. Royceman is going to  
16 come here, then we don't need to fax it anywhere.

17 MR. KLEIN: Understood.

18 THE COURT: If he's not, we have to make  
19 arrangements with whatever court he's going to go to,  
20 whether that be in White Plains -- I would say if he's  
21 going to the Manhattan court, he can drive across the  
22 bridge.

23 MR. KLEIN: Right.

24 THE COURT: So it's only if he needs to have  
25 that as an accommodation.



1 MR. KLEIN: Understood.

2 THE COURT: And the \$100,000 must be posted  
3 by Wednesday.

4 Do you understand that?

5 MR. KLEIN: We do. Our understanding, your  
6 Honor, is that we will either post cash or provide  
7 security in the form of an account with the cash in the  
8 account.

9 THE COURT: And that's been approved by the  
10 government?

11 MR. PAES: Yes, your Honor, it has.

12 MS. COOLEY: We wrote on the bond, your  
13 Honor, we will approve the account if the account is  
14 acceptable to us. So it's either cash or an account  
15 that we deem acceptable. So we will have that  
16 conversation with counsel.

17 THE COURT: It says "or the posting of an  
18 account acceptable to the government." In any event,  
19 it must be posted by 12/21, is that correct, Ms.  
20 Cooley?

21 MS. COOLEY: Yes, your Honor.

22 THE COURT: Thank you.

23 You understand that, Mr. Landesman?

24 DEFENDANT LANDESMAN: I do.

25 THE COURT: Very good. Mr. Landesman, I am

1 going to ask, is this your signature on the bond?

2 THE CLERK: Is that your signature, bottom  
3 right?

4 DEFENDANT LANDESMAN: It is.

5 THE CLERK: Thank you.

6 THE COURT: Then I'm going to wait and give  
7 you your bail warnings when I give it to everybody  
8 else. Everybody has to see Pretrial Services today, so  
9 everybody understands that as well.

10 Now we're moving on to Mr. Sanfilippo. Mr.  
11 Sanfilippo, it's a two-million-dollar bond. You must  
12 remain in the Southern and Eastern Districts of New  
13 York and the District of New Jersey. You shall avoid  
14 all contact and not associate with any codefendant  
15 except in the presence of counsel. You shall not  
16 associate with or contact any investors. You'll  
17 surrender your passport. That's being done today.

18 Is that correct, agents?

19 MR. O'BRIEN: He doesn't have a passport.

20 MS. COOLEY: He doesn't have one, actually,  
21 your Honor.

22 THE COURT: He's the one that doesn't.

23 MR. O'BRIEN: Yes.

24 THE COURT: So then I'm going to cross that  
25 out. You shall not apply for a passport and you're

1 placed under the express supervision of Pretrial  
2 Services. You're subject to random visits by Pretrial  
3 Services and you must report to that agency as  
4 directed.

5 Do you understand all of that?

6 DEFENDANT SANFILIPPO: I understand, your  
7 Honor.

8 THE COURT: It is a two-million-dollar bond  
9 that is going to be secured by two different  
10 properties, one that is at Fairview Court in Freehold,  
11 New Jersey, that you own, and the other at 6664  
12 Sedgewick Place, also owned by you, is that correct?

13 DEFENDANT SANFILIPPO: That's correct, your  
14 Honor. The first property is 3 Fawnview Court.

15 THE COURT: Thank you. I would not be able  
16 to read that. F-a-w-n-v-i-e-w?

17 DEFENDANT SANFILIPPO: That's correct, your  
18 Honor.

19 THE COURT: And you're the sole owner?

20 DEFENDANT SANFILIPPO: Yes, along with my  
21 wife.

22 THE COURT: So you're not the sole owner.  
23 Ms. Palmieri is your wife?

24 DEFENDANT SANFILIPPO: No, Mrs. Maria  
25 Sanfilippo.

1           THE COURT: So we need her as a suretor,  
2 government.

3           MS. COOLEY: Your Honor, obviously, we have  
4 the same concern and we discussed suretors with  
5 counsel. I think that no suretor could come to court  
6 today, in part because of substantial child care  
7 concerns today. I think that we would ask that she  
8 also be required to sign by Wednesday, if that's  
9 acceptable.

10          MR. O'BRIEN: Your Honor, along those lines,  
11 could I just make one small request? Joe had put his  
12 mother down as the cosigner.

13          THE COURT: Is that Carolyn Palmieri?

14          MR. O'BRIEN: Yes, your Honor. But it makes  
15 more sense, especially in light of what was just said,  
16 to have his wife Maria --

17          THE COURT: It's a two-million-dollar bond.  
18 I don't know how much thee properties are worth but  
19 having one suretor for a two-million-dollar bond? His  
20 wife has two million dollars?

21          MR. O'BRIEN: If it's a matter of assets,  
22 your Honor, this is a modest family. The mother  
23 doesn't have that kind of money, either.

24          THE COURT: I wasn't the one that put her  
25 name down. I have no idea what they have.

1           MR. O'BRIEN: The only reason we tried to  
2 spare the wife is because of the childcare concerns.  
3 But it turns out that the mother is going to be in  
4 Memorial Sloane Kettering tomorrow and it makes a lot  
5 more sense to have -- if the wife is signing the  
6 surety, that she come in and cosign the bond as well.  
7 That's what we're proposing.

8           THE COURT: The wife has to sign or else the  
9 properties are not worth anything because she's a co-  
10 owner.

11          MR. O'BRIEN: Fine.

12          THE COURT: So there's no question the wife  
13 has to sign. I'm just questioning what the government  
14 is doing here with a two-million-dollar bond for  
15 somebody who he's saying they're a modest family and  
16 they don't have assets.

17          MS. COOLEY: Your Honor, it was represented  
18 to us that the two properties combined are worth  
19 several hundred thousand dollars.

20          MR. O'BRIEN: Your Honor, they have over  
21 seven hundred thousand dollars in equity.

22          THE COURT: I wasn't the one that listed the  
23 mother. Let's be clear. I was presented with a bond.  
24 I have no idea who Carolyn Palmieri is.

25          MR. O'BRIEN: Understood.

1 THE COURT: So that you listed the mother --  
2 I don't know what her schedule is, I don't know what  
3 her problems in the world are. That was how it was  
4 presented to me, counsel, so it must have been  
5 discussed with the government.

6 MR. O'BRIEN: Understood, your Honor, and it  
7 was. And the request was it came down to us was to us  
8 was to find a close family member who is responsible  
9 and owns something to cosign on the bond.

10 THE COURT: So does the mother own  
11 something?

12 MR. O'BRIEN: She owns the property we're  
13 discussing.

14 DEFENDANT SANFILIPPO: No, she doesn't.

15 THE COURT: No, the mother does not own the  
16 property we're discussing, that's the wife.

17 MR. O'BRIEN: Does she own her own home?

18 DEFENDANT SANFILIPPO: She owns a percentage  
19 of a home in Brooklyn.

20 THE COURT: What percentage because without  
21 the other person signing the bond who owns the other  
22 percentage, we can't get at the property.

23 DEFENDANT SANFILIPPO: Over two-third, your  
24 Honor, of the home.

25 THE COURT: Excuse me?

1           DEFENDANT SANFILIPPO: Over two-thirds of  
2 the home.

3           THE COURT: No, but what I'm saying, Mr.  
4 Sanfilippo, the way that the property works is that  
5 everybody who owns the property has to sign the bond to  
6 make that potential for the government to seize. If  
7 the person who is the object of the bond doesn't report  
8 to court, the government is going to go after the  
9 people who sign the bond to satisfy the judgment. If  
10 your mother owns two-thirds of a property, the  
11 government can't take her two-thirds without having the  
12 person who owns the other third.

13           DEFENDANT SANFILIPPO: I understand, your  
14 Honor.

15           THE COURT: I don't know what the government  
16 was thinking when they were reviewing what and who was  
17 going to sign the bonds.

18           MS. COOLEY: Your Honor, we did express to  
19 counsel that we -- as conditions for the bond, we would  
20 need two financially responsible suretors with  
21 substantial income or assets. Counsel listed the  
22 individuals who are currently listed.

23           THE COURT: There's only one individual  
24 listed; that's Carolyn Palmieri. They listed the  
25 properties in Freehold, New Jersey and Sedgewick Place,

1 but if they're owned outright by Mr. Sanfilippo, that's  
2 fine. But if they're owned jointly with his wife, we  
3 need his wife to sign.

4 MR. O'BRIEN: She will sing.

5 THE COURT: Right, but the mother now you're  
6 saying is a problem because she's got an appointment at  
7 Sloane Kettering, which I'm sorry to hear that but we  
8 need two people on this bond.

9 MR. O'BRIEN: Understood. We'll get them  
10 both in, your Honor.

11 DEFENDANT SANFILIPPO: Your Honor, we'll  
12 find another person by Wednesday if it's not my mother,  
13 if you have concerns --

14 THE COURT: It's not my concern. Your  
15 counsel voiced a concern that your mother is getting  
16 treatment at Sloane Kettering. Then I was asking what  
17 your assets were and counsel said that your family is a  
18 family of modest means. I am saying that the bond  
19 should be signed by people who are financially stable  
20 suretors, where if the two million dollars is to have  
21 any meaning, the government could collect on the two-  
22 million-dollar bond. If your mother is a retiree and  
23 the only thing that she has is the property but she  
24 owns it jointly with other people, that's not going to  
25 be used to satisfy the bond.



1                   DEFENDANT SANFILIPPO: Understood, your  
2 Honor.

3                   THE COURT: So what are we doing here?

4                   MS. COOLEY: Your Honor, counsel also had  
5 said that the defendant had one or more cousins who did  
6 meet that standard of being financially stable and  
7 responsible.

8                   THE COURT: So is what you want m, e to do  
9 cross out Carolyn Palmieri, who is your mom --

10                  DEFENDANT SANFILIPPO: Yes.

11                  THE COURT: Cross her out, list your wife  
12 because in order for you to list these properties, your  
13 wife must sign the bond, even if she has childcare  
14 issues. You'll get one other financially stable  
15 suretor to sign the bond by Wednesday. Is that what  
16 you want me to put on this bond?

17                  MR. O'BRIEN: We can do that, your Honor.  
18 If the government is amenable to it, that's what we  
19 should do.

20                  MS. COOLEY: Yes, your Honor, we are.

21                  THE COURT: So you want me to cross your mom  
22 out.

23                  DEFENDANT SANFILIPPO: Yes, your Honor.

24                  THE COURT: Her address was the 638 64<sup>th</sup>  
25 Street address?

1                   DEFENDANT SANFILIPPO: Yes, your Honor.

2                   THE COURT: So cross that out as well.

3                   DEFENDANT SANFILIPPO: Yes.

4                   THE COURT: Mr. Sanfilippo, your wife's name  
5 is?

6                   DEFENDANT SANFILIPPO: Maria, your Honor.

7                   THE COURT: With Sanfilippo as her last  
8 name, sir?

9                   DEFENDANT SANFILIPPO: That's correct.

10                  THE COURT: Then I'm going to write under  
11 other conditions, one additionally financial stable  
12 suretor to sign. That's going to be by Wednesday,  
13 which is 12/21.

14                  DEFENDANT SANFILIPPO: Yes.

15                  THE COURT: His wife is going to sign by  
16 Wednesday, 12/21, as well.

17                  MR. O'BRIEN: Yes, your Honor.

18                  THE COURT: This does not have any cash  
19 because you're going to get the confession of judgment  
20 on the two properties, one in New Jersey and one at  
21 Sedgewick Place, and he can post those confessions of  
22 judgment by 12/28/16, is that correct?

23                  MS. COOLEY: Yes, your Honor.

24                  THE COURT: Do you understand that, Mr.  
25 Sanfilippo?

1                   DEFENDANT SANFILIPPO: I do, your Honor.

2                   THE COURT: So in other words, the  
3 government will have the paperwork for the properties,  
4 if there is any -- if you fall down on your obligation  
5 to appear, the government will be able to use this as a  
6 judgment against the properties and we'll have the  
7 paperwork on the properties.

8                   Do you understand that?

9                   DEFENDANT SANFILIPPO: I do, your Honor.

10                  THE COURT: Can I have you pass this  
11 forward?

12                  MR. O'BRIEN: Your Honor, can I make one  
13 small geographic request, which I just learned about  
14 and which the government does not oppose? That Mr.  
15 Sanfilippo be allowed to attend a family New Year's  
16 Eve/New Year's event in Pennsylvania for two days only.

17  
18                  THE COURT: Is there any objection to that?

19                  MS. COOLEY: No, your Honor.

20                  THE COURT: Do you want that on the bond,  
21 Ms. Adessa (ph)?

22                  MS. ADESSA: Yes, your Honor.

23                  THE COURT: You want me to say permitted to  
24 go to a party in New Jersey for New Year's?

25                  MS. ADESSA: Yes.

1 THE COURT: Okay.

2 MS. COOLEY: Pennsylvania.

3 DEFENDANT SANFILIPPO: Pennsylvania.

4 THE COURT: Pennsylvania, sorry.

5 MR. O'BRIEN: Thank you.

6 THE COURT: But you'll tell Pretrial  
7 Services where that is.

8 DEFENDANT SANFILIPPO: Yes, your Honor.

9 THE COURT: I'm going to write family  
10 gathering because it sounds more sedate. When are you  
11 going?

12 DEFENDANT SANFILIPPO: We'll be leaving on  
13 December 30<sup>th</sup>, your Honor, and returning January 1<sup>st</sup>.

14 THE COURT: 12/20 through 1/1/17?

15 DEFENDANT SANFILIPPO: Yes, your Honor.

16 MR. O'BRIEN: Yes.

17 THE COURT: Now can I ask you to show it to  
18 him? Thank you.

19 THE CLERK: Can you sign the bond for Mr.  
20 Levy and Mr. Nordlicht? I think one of the spouses is  
21 waiting or something.

22 THE COURT: They're going to have to wait  
23 because I have to give them bail warning and they still  
24 have to go to Pretrial Services.

25 THE CLERK: Okay, I see.

1           THE COURT: So they're just going to have to  
2 wait.

3           THE CLERK: Is this your signature on the  
4 bond?

5           DEFENDANT SANFILIPPO: Yes, it is.

6           THE CLERK: Thank you very much.

7           THE COURT: Next up -- is Mr. Levy back?

8           MR. SOMMER: Mr. Levy is still in there but  
9 there is one minor change to the language on his that  
10 the government has consented to.

11          THE COURT: Yes.

12          MR. SOMMER: That's on the no contact with  
13 investors other than at the direction --

14          THE COURT: Direction of any liquidator,  
15 trustee or monitor.

16          MR. SOMMER: Adding the words "other than  
17 family members" because there are some family member  
18 investors.

19          THE COURT: Okay. So it says codefendants  
20 except presence of counsel, investors other than at the  
21 direction of any liquidator, trustee or monitor, except  
22 for family members?

23          MR. SOMMER: That's fine.

24          MR. PAES: That is correct, your Honor.

25          MR. SOMMER: Thank you, Judge.

1 THE COURT: Not the best construction, I  
2 will tell you. There are two "excepts" in there.

3 MR. SOMMER: Piecemeal grammar.

4 THE COURT: Now do we have Mr. Levy back or  
5 no?

6 MR. SOMMER: I can ask for him to come back.

7 THE COURT: Can you please ask him to come  
8 back.

9 UNIDENTIFIED SPEAKER: Your Honor, they just  
10 started whatever ritual --

11 THE COURT: It was represented to me that  
12 they needed a minute.

13 MR. SOMMER: Two minutes, your Honor.  
14 That's what we were told.

15 UNIDENTIFIED SPEAKER: Your Honor, I'm out  
16 here on Mr. Nordlicht's behalf. I'm just filling in  
17 for Mr. Brown.

18 THE COURT: That doesn't help me.

19 MR. SOMMER: Mr. Levy is coming back in,  
20 your Honor.

21 THE COURT: Thank you. But I appreciate it.  
22 Mr. Mann. I keep saying Levy but I mean Mr. Mann.

23 MR. SOMMER: You don't want to Mr. Levy?

24 THE COURT: I'm going to do the bail  
25 warnings for everybody at the same time but I need Mr.

1 Mann back because we haven't done -- I'm sorry.

2 MR. SOMMER: So Mr. Levy should go back  
3 again?

4 THE COURT: I really would like everybody to  
5 stay put but is he done?

6 MR. SOMMER: He'll stay. I think we jut got  
7 the Mann and Levy mixed up but Mr. Levy will stay.

8 THE COURT: I got the Mann and Levy. Can we  
9 have Mann out, please.

10 UNIDENTIFIED SPEAKER: Your Honor, I believe  
11 the other defendants are still praying. Do you want  
12 them out now?

13 THE COURT: Pray early, people.

14 Mr. Klugman, I'm sorry, you're going to have  
15 to indulge me.

16 MR. KLUGMAN: It's fine, your Honor.

17 THE COURT: I'm going to give everybody else  
18 the bail warnings and then I'm going to have you make  
19 your application --

20 MR. KLUGMAN: That's perfectly fine.

21 THE COURT: -- once I get rid of everybody  
22 so that they can start going to Pretrial. Thank you  
23 very much.

24 Mr. Mann.

25 DEFENDANT MANN: I'm sorry, your Honor.

1           THE COURT: It's quite okay. This is an  
2 order setting the conditions of your release on bond.  
3 It's a one-million-dollar promise that you will come  
4 back to court whenever you're directed to do so. It  
5 also requires you to stay in the Southern and Eastern  
6 Districts of New York and that you will not contact or  
7 associate with any codefendant, except in the presence  
8 of counsel, and you will not contact and associate with  
9 any investor.

10           Do you understand that, sir?

11           DEFENDANT MANN: Yes, your Honor.

12           THE COURT: And that you'll surrender your  
13 passport.

14           Does the agent have the passport for Mr.  
15 Mann?

16           MS. COOLEY: Your Honor, I have it,  
17 actually, and we can turn it over to Pretrial.

18           THE COURT: Thank you, Ms. Cooley.

19           I'm noting that your passport has been  
20 surrendered and you will be given a receipt. You are  
21 placed under the express supervision of Pretrial  
22 Services. You're subject to random visits by Pretrial  
23 Services at your home or place of work and you must  
24 report to Pretrial Services as directed. There's going  
25 to be a premises that's owned by Joe and Daniella Mann



1 at 1327 East 4<sup>th</sup> Street in Brooklyn, New York, where  
2 there's going to be a confession of judgment filed on  
3 the property by 12/28. I believe that we have somebody  
4 in court today who signed this. It says Elman (ph)  
5 Serena Nina. I don't know what that is.

6 MR. O'BRIEN: We have them in court today,  
7 your Honor.

8 THE COURT: So both Joe and Daniella Mann  
9 are here?

10 MR. O'BRIEN: I believe so.

11 THE COURT: Are they the only signatures on  
12 this bond, Ms. Cooley?

13 MS. COOLEY: Your Honor, I believe that  
14 includes Mr. Mann's mother, and I believe his father  
15 was also present. We were willing to have his wife and  
16 one of his parents sign.

17 THE COURT: I don't understand. Who I Joe  
18 and Daniella?

19 MR. JOE MANN: I'm Joe, this is my wife,  
20 Daniella.

21 THE COURT: Who else is signing the bond?

22 UNIDENTIFIED SPEAKER: I'm signing, Elman  
23 Serena Nina.

24 THE COURT: Can you step forward, the people  
25 who are going to sign? That's good, thank you. I'll

1 ask my deputy to swear you in?

2 (Suretors are sworn.)

3 THE CLERK: State your name for the record.

4 MS. WEITZMAN: Daniella Weitzman.

5 THE CLERK: State your name.

6 MS. NINA: Elman Serena Nina.

7 THE CLERK: Thank you.

8 THE COURT: Ms. Serena and Ms. Weitzman, you  
9 understand that Mr. Mann has been charged with a  
10 serious federal crime and that in order for him to be  
11 released pending the trial on these charges, he has  
12 asked you to come down to sign this bond. This is a  
13 one-million-dollar bond and it will be secured by the  
14 property where I believe you live with your husband,  
15 Ms. Weitzman. How long have you bee married?

16 MS. WEITZMAN: Two years.

17 THE COURT: What do you do for a living,  
18 ma'am?

19 MS. WEITZMAN: I work a couple of hours a  
20 week.

21 THE COURT: How long ago did you buy the  
22 property?

23 MS. WEITZMAN: About a year ago.

24 THE COURT: How much did you buy the  
25 property for?

1 MS. WEITZMAN: I'm not sure. My husband  
2 does the finances.

3 THE COURT: Ms. Serena, what do you do for a  
4 living?

5 MS. NINA: I'm working at an airline and I  
6 can guarantee him. I have a 401(k) and I can guarantee  
7 him.

8 THE COURT: Again, I appreciate that you're  
9 his mother. You would do anything you had to do. But  
10 I'm just trying to figure out -- it's a one-million-  
11 dollar bond.

12 MS. NINA: I understand.

13 THE COURT: So even if you have a very nice  
14 401(k), you're not supposed to touch that until you're  
15 a certain age and that's supposed to take care of you  
16 into your old age. So I'm just trying to figure out,  
17 do you own your property?

18 MS. NINA: No.

19 THE COURT: Ms. Weitzman and Ms. Serena, you  
20 understand that this obligation is a big obligation and  
21 if for any reason Mr. Mann does not come back to court  
22 when he's directed to do so, you will both be on the  
23 hook to the United States government for the full  
24 amount of the bond. It's a one-million-dollar promise.

25 Do you understand that, Ms. Weitzman?

1 MS. WEITZMAN: Yes.

2 THE COURT: Do you understand that, Ms.  
3 Serena.

4 MS. NINA: I understand that.

5 THE COURT: The government finds these two  
6 suretors to be sufficient?

7 MS. COOLEY: Yes, your Honor.

8 THE COURT: Ms. Weitzman, I didn't put your  
9 first name but if you could please put your first name  
10 and if you could put your address and if you could both  
11 sign. Thank you.

12 Can you just affirm, Mr. Mann, that is your  
13 signature on the bond?

14 DEFENDANT MANN: Yes, your Honor.

15 THE COURT: Thank you very much.

16 I have taken the signatures of the suretors  
17 for Mr. Mann, for Mr. Levy and for Mr. Nordlicht. I am  
18 directing that the suretors for Mr. Landesman and for  
19 Mr. Sanfilippo must still come to the Court, which was  
20 discussed on the record.

21 MR. KLEIN: Your Honor, my understanding is  
22 that the suretors for Mr. Landesman -- if they're  
23 unable to come here --

24 THE COURT: If you make the arrangement,  
25 you'll make the arrangement for them. They're still

1 going to a court to sign on to the bond.

2 MR. KLEIN: Correct.

3 THE COURT: I'm required by law to give you  
4 all the following bail warnings: If for any reason you  
5 do not come back to court when you are directed to do  
6 so, there will be agents dispatched. They will find  
7 you. They will place you under arrest. The likelihood  
8 is you will not be released again pending your trial on  
9 these charges.

10 In addition, there's a separate federal  
11 offense called bail jumping. If you don't come back to  
12 court when you're directed to do so and you've signed  
13 on to a bond saying you will return to court, if you  
14 don't come back to court, you can be prosecuted for the  
15 separate federal offense called bail jumping, which is  
16 punishable by up to ten years in jail, even if you are  
17 never convicted of the crime for which you stand  
18 accused today.

19 Last but not least, if you commit any other  
20 crime while you are out on bail bond, they can enhance  
21 the penalty for whatever the crime is that you commit.  
22 If for instance in New York, you commit a felony while  
23 out on bail, they can add up to ten years to whatever  
24 the crime offense was that you committed because you  
25 committed that criminal offense while out on bail bond.

1           Those are the bail warnings but whoever else  
2 signed this bond, you will be financially ruining their  
3 lives. There are consequences of signing bonds even  
4 though it may just be an inconvenience today to come  
5 sign a bond. But for instance, in Mr. Sanfilippo's  
6 case, they could take your properties away from you.  
7 In Mr. Landesman's case, they're going to be posting  
8 \$100,000 but that will still leave 1.9 million that  
9 they could take out of your sister and your friend the  
10 doctor's accounts.

11           Mr. Levy, your father and your brother  
12 signed the bond. Even though \$200,000 was being  
13 deposited, they can come after them for the 1.8 million  
14 that remains on the bond obligation.

15           I'm not going through each and every one  
16 your obligations but I need to hear on the record --  
17 Mr. Nordlicht, do you understand those bail warnings?

18           DEFENDANT NORDLICHT: I do, thank you.

19           THE COURT: Will you come back to court  
20 whenever you're directed to do so?

21           DEFENDANT NORDLICHT: Yes.

22           THE COURT: Will you abide by all the other  
23 conditions that have been set forth on the record with  
24 regard to your bail?

25           DEFENDANT NORDLICHT: Yes.

1 THE COURT: Then I have signed your bond and  
2 you must go to Pretrial to make arrangements about  
3 reporting with them.

4 Mr. Levy, do you understand the obligations  
5 that I've set forth on the record?

6 DEFENDANT LEVY: Yes, your Honor.

7 THE COURT: Do you understand the bail  
8 warnings that I have given you?

9 DEFENDANT LEVY: Yes, your Honor.

10 THE COURT: You understand that if you do  
11 not come back to court, that there are consequences  
12 which may include prosecution for a separate crime.

13 Do you understand that?

14 DEFENDANT LEVY: Yes, your Honor.

15 THE COURT: I'm signing that you be released  
16 on these conditions and I'm directing that you go meet  
17 with Pretrial.

18 MR. SOMMER: Thank you, your Honor.

19 THE COURT: As far as Mr. Landesman, we've  
20 gone over the conditions on the record. Do you  
21 understand the bail warnings, Mr. Landesman?

22 DEFENDANT LANDESMAN: I do.

23 THE COURT: Do you agree to come back to  
24 court whenever you're directed to do so?

25 DEFENDANT LANDESMAN: Absolutely.

1           THE COURT: Then I'm signing on to this and  
2 directing that you can go meet with Pretrial.

3           Mr. Sanfilippo, do you understand the bail  
4 warnings?

5           DEFENDANT SANFILIPPO: Yes, your Honor.

6           THE COURT: Do you agree to abide by all the  
7 conditions in the bond?

8           DEFENDANT SANFILIPPO: I do, your Honor.

9           THE COURT: And come back to court whenever  
10 you're directed to do so.

11          DEFENDANT SANFILIPPO: Yes.

12          THE COURT: Then I'm signing on to this  
13 order setting the conditions of your release and you  
14 may go meet with Pretrial.

15          Mr. Mann, do you understand the conditions  
16 that have been set forth on the record?

17          DEFENDANT MANN: Yes, your Honor.

18          THE COURT: Do you agree to come back  
19 whenever you're directed to do so?

20          DEFENDANT MANN: Yes, your Honor.

21          THE COURT: I am signing that you should be  
22 released and you may go meet with Pretrial.

23          DEFENDANT MANN: Thank you.

24          THE COURT: Can everybody please leave the  
25 courtroom so that I can deal with the remaining



1 defendant Mr. Small's application? Thank you.

2 I understand that you haven't been able to  
3 reach an agreement regarding Mr. Small's release on  
4 bond.

5 MR. KLUGMAN: We have not, your Honor.

6 THE COURT: So what have you proposed and  
7 where are we going with this?

8 MR. KLUGMAN: In my view, we should -- my  
9 proposal is similar to what I think Pretrial  
10 recommended, and there are some special circumstances  
11 that are not even in the report which I do want to  
12 reference. But what I proposed is a \$250,000 bond. We  
13 have two suretors who are willing to sign. Neither of  
14 them live in the New York area. He has two brothers.  
15 They're both referenced in the report, one of whom  
16 lives in Atlanta, the other of whom lives in Los  
17 Angeles.

18 THE COURT: If I could just say, his brother  
19 that's in Atlanta -- and I know nothing about him  
20 except what's in the Pretrial Services report. He's a  
21 substitute teacher. He doesn't have a steady income  
22 but he owns a \$220,000 condo?

23 MR. KLUGMAN: That's correct.

24 THE COURT: How can that be?

25 MR. KLUGMAN: Because it's an inheritance.

1 Mr. Small's parents unfortunately passed, both of them  
2 within the last year.

3 THE COURT: I'm sorry.

4 MR. KLUGMAN: That went to his brother Josh.

5 THE COURT: So he owns it outright.

6 MR. KLUGMAN: Outright, no mortgage.

7 THE COURT: Okay. That makes a little more  
8 sense. Go ahead.

9 MR. KLUGMAN: We don't believe that that  
10 condo should -- there should be any property that needs  
11 to be posted here, which is something that was not  
12 asked for in the Pretrial Services report.

13 THE COURT: I'm not asking for it.

14 MR. KLUGMAN: I understand, your Honor.

15 THE COURT: I just couldn't understand how  
16 somebody could own a \$220,000 condo when they're a  
17 substitute teacher that doesn't work steadily.

18 MR. KLUGMAN: My understanding of the  
19 dispute, and I'll get to the reasons why I think that  
20 what I've offered is appropriate under these  
21 circumstances, is about the amount of the bond. The  
22 government may also want some property. But I do think  
23 there are some terms that we've all agreed on and  
24 they're actually filled in here.

25 In terms of his travel, the Southern

1 District and the Eastern District of New York and the  
2 District of New Jersey. In terms of the no contact  
3 provision, codefendants except in the presence of  
4 counsel, and investors in Platinum Partners. His  
5 passport has been surrendered. Pretrial Services does  
6 have it.

7 MR. PAES: The agent has it.

8 UNIDENTIFIED SPEAKER: Pretrial took it.

9 THE COURT: Pretrial took it?

10 UNIDENTIFIED SPEAKER: Yes.

11 THE COURT: Can we get somebody to verify  
12 whether or not Pretrial has it because she did come and  
13 pick up a couple of passports. Thank you.

14 Go ahead.

15 MR. KLUGMAN: I can represent that it was  
16 given to the agents today.

17 THE COURT: Go ahead.

18 MR. KLUGMAN: Reporting as directed to  
19 Pretrial Services. This is not, as your Honor knows  
20 from the indictment, a case of violence. Really the  
21 only issue here is whether or not Mr. Small is a flight  
22 risk, and there are a number of reasons why I think  
23 that he's not. Some of them are reflected in the  
24 report and some of them are not reflected in the  
25 report.

1           He has three children. They all live in the  
2 New York area. He's been in the New York area as a  
3 resident since 1993, born in the United States. The  
4 other big factors that's not reflected in the report  
5 is, Mr. Small knew that this was coming. He knew that  
6 his arrest was coming for a while.

7           THE COURT: They all did.

8           MR. KLUGMAN: We have been in discussion  
9 with the government about allowing Mr. Small -- not me  
10 personally, my partner, Seth Levine, who is on vacation  
11 today.

12          THE COURT: Aren't you lucky?

13          MR. KLUGMAN: This is part of the problem.  
14 We have been in discussion. Allow Mr. Small to self-  
15 surrender. We can work out a package in advance.  
16 These discussions have been going on for a month. We  
17 have known as of the middle of last week when we asked  
18 to appeal the government's decision to bring charges  
19 against Mr. Small and our request to appeal was denied.  
20 We knew as a matter of certainty as of Wednesday night  
21 at 11:10 --

22          THE COURT: That he was going to be  
23 arrested.

24          MR. KLUGMAN: -- that he was going to be  
25 arrested and that it was going to be imminent. And yet

1 Mr. Small is standing right here next to me. He was in  
2 his house and the agents were able to arrest him at  
3 home this morning.

4 THE COURT: So let's come up with a bail  
5 amount that's reasonable and security for the  
6 government. I don't know what their problem is with  
7 what has been proposed. It is a substantially smaller  
8 amount than the other people have been released on. I  
9 will note that for the record.

10 MR. PAES: May I address that a bit, your  
11 Honor.

12 THE COURT: Yes.

13 MR. PAES: I think we had proposed a  
14 million-dollar bond for Mr. Small with the posting of  
15 the property -- with two suretors and the posting of  
16 the property that his brother in Atlanta owns, the  
17 condo. We thought that that was as pretty reasonable  
18 proposal, especially in light of what the Court has  
19 already seen with respect to some of the other  
20 defendants.

21 THE COURT: Can I just ask you, to be clear,  
22 the recommendation from Pretrial doesn't include that  
23 there has to be a posting of property. That's one.  
24 Two, it may be that his brothers would agree to sign  
25 but neither of them would want to put their property on

1 the line for whatever reason. Whether or not the  
2 brother in Atlanta needs it to refinance to get money  
3 to live on -- I can't tell you what the reasons might  
4 be. But Mr. Small, if it's a million-dollar bond with  
5 two suretors, would be in line with everybody else.  
6 Why would that -- I understand that it was proposed  
7 that it be a \$250,000 bond.

8 But what I would say, Mr. Klugman, quite  
9 frankly, if he's not going anywhere, whether it's a  
10 million or it's 250 doesn't matter because it's just  
11 signing on to a piece of paper. It only takes effect  
12 if he does try to leave and doesn't return and live up  
13 to his obligations.

14 MR. KLUGMAN: I agree with your Honor's  
15 statement but it does matter to his brothers.  
16 Obviously, it matters to him. He's here. We fully  
17 expect him to come back to court. He will pledge to  
18 come back to the Court. The question here really is,  
19 what is appropriate under the circumstances? The fact  
20 that others who are more culpable based on the face of  
21 the indictment are willing to agree to more amounts of  
22 money and have more amounts of money that they are able  
23 to put up shouldn't affect whether -- what the bond is  
24 for Mr. Small. Each case, as your Honor knows, should  
25 be evaluated on its own merits.

1           What we have here, as your Honor has rightly  
2 pointed out, is a recommendation from Pretrial Services  
3 that does not require any property. We think that  
4 given the fact that he has known about this, that  
5 \$250,000 satisfies their request for a substantial  
6 bond, which is what they call for in their  
7 recommendation.

8           THE COURT: Mr. Paes?

9           MR. PAES: Your Honor, I want to address  
10 this thing about he's known about it because obviously,  
11 all the defendants have known that charges may be  
12 coming. With respect to Mr. Small, until very recently  
13 when we notified him, which was last week, that the  
14 appeal was denied, the position that his lawyers have  
15 taken was that no crime had been even committed over  
16 here. So the fact that he did not flee from say for  
17 example the time that the government's presence got  
18 known when we executed the search until now means  
19 nothing, given the fact that the position they've taken  
20 was that he did nothing wrong and no crime had been  
21 committed.

22           So if Mr. Klugman is going to argue that he  
23 didn't flee and he wants to point out from last week  
24 Wednesday until today as the basis for that, maybe I'll  
25 grant him that. But to claim that he's known for

1 months that he was not going to be -- that he was going  
2 to be charged is simply not true in light of the  
3 discussions we've had with counsel.

4           Secondarily, Mr. Klugman talked about, there  
5 are some things that are in the Pretrial Services  
6 report and some things that are not. What's important  
7 to note is that what's not is the fact that Mr. Klugman  
8 -- upon request of defense counsel, it says that  
9 Pretrial Services did not inquire about the defendant's  
10 financial resources or expenses. I think that's  
11 important because that's an important fact that's  
12 missing in the Pretrial Services report compared to the  
13 other defendants, who did speak to them about what  
14 their assets were.

15           THE COURT: Is that because he's a former  
16 member of your office and so he's going to tell his  
17 clients to say as little as possible to get the bond in  
18 place?

19           MR. PAES: That's fine, but you can't use  
20 that, your Honor, in some ways as a means of not  
21 disclosing and then yet say in the same manner that now  
22 he doesn't have the resources.

23           THE COURT: I'm prepared to cut through  
24 this. I don't think 250 is sufficient but I would  
25 think that if it was a \$600,000 bond, that that would



1 be sufficient, signed by the two suretors that he's  
2 proposing. Everybody else has been let go on a  
3 million. I don't think \$600,000 is such a deviation.  
4 Is there a problem?

5 MR. PAES: No, your Honor. The only thing I  
6 would say -- I think we're fine with the \$600,000 but  
7 every other single defendant has posted some  
8 collateral, either cash or they have posted property.  
9 To say that Mr. Small is somehow not charged in --  
10 granted, he's not charged in the main scheme. He's  
11 charged in the fifty-million-dollar scheme and the  
12 evidence --

13 THE COURT: What's his interest in the  
14 apartment he lives in? I understand he's going through  
15 a divorce proceeding but does he have an interest in  
16 the apartment he lives in?

17 MR. KLUGMAN: He rents the current  
18 apartment. There obviously is some information on his  
19 financial circumstances. The questions we didn't allow  
20 him to answer --

21 THE COURT: It's probably because of the  
22 divorce.

23 MR. KLUGMAN: -- were the ones relating to  
24 his work at Platinum Partners, which is the subject  
25 matter of the indictment. I will just say for the

1 record, we still take the position that Mr. Small has  
2 committed no crime. Obviously, the government has  
3 reached a different conclusion but that fact has not  
4 changed from when we started these discussions.

5 THE COURT: That's not what I need you to  
6 speak to at this point in time.

7 MR. KLUGMAN: I understand that but --

8 THE COURT: Their point is that every single  
9 other person who has been released, even if they didn't  
10 post it today, are posting something, whether it be  
11 cash or the properties, Mr. Sanfilippo, Mr. Levy, Mr.  
12 Mann, every single one. So is there any property that  
13 can be posted, if not the guy down in Georgia, somebody  
14 else?

15 MR. KLUGMAN: We do have property that's  
16 available to be posted, as reflected in the report. We  
17 think it is entirely inappropriate. The reference to  
18 what other people agreed to in an agreed-upon bail  
19 package really should not affect the Court's decision  
20 as to what is appropriate for Mr. Small. Under the  
21 circumstances --

22 THE COURT: I'll tell you the reason why it  
23 does is I probably wouldn't have come up with the same  
24 packages that the government has consented to. If I  
25 was the one looking at this in the first instance, I

1 probably would not have come up with those bonds. And  
2 that that was agreed to for five out of six, it does  
3 inform my judgment as to what the negotiations back and  
4 forth have been. So if you're telling me that there is  
5 property that could be posted, if it's going to be by  
6 one of the people who are signing, let's not fight.  
7 Mr. Small wants to go home. Let him get to Pretrial.  
8 Everything else is worked out.

9           It is less. You still did better than any  
10 of his colleagues did by arguing about this but I'm not  
11 in the position that I could really know whether or not  
12 his money is liquid and he would be able to get out of  
13 here, and maybe the kids that he's fighting about with  
14 his wife are such a hardship and pain to him that he  
15 just want to flee the jurisdiction. I don't know.

16           MR. KLUGMAN: Your Honor, I'll say there's  
17 no evidence that that's the case.

18           THE COURT: I was saying it in a -- I'm not  
19 trying to in any way undermine the seriousness of this  
20 proceeding but I was saying it sarcastically. If he's  
21 involved in a divorce, then obviously, there are things  
22 at issue for him that may not be at issue for the rest  
23 of the people who are charged. But that being said, if  
24 he has brothers that are going to sign this and if he's  
25 not going to go anywhere anyway, then it wouldn't

1 matter if some collateral was posted.

2 MR. KLUGMAN: Your Honor, given that the  
3 Court at one point was considering \$600,000 with no  
4 property and we are now offering \$220,000 and change  
5 worth of property to be posted, I'd ask that the  
6 \$600,000 be made a little bit lower under the  
7 circumstances.

8 MR. PAES: Your Honor, I think obviously, we  
9 would ask for one million dollars. We are fine with  
10 \$600,000. I feel like they're arguing back and forth  
11 over something that seems unnecessary but nonetheless  
12 an important aspect to place some level of restrictions  
13 on Mr. Small so that he feels some form of risk.

14 THE COURT: I'm sure that he feels it. I'll  
15 stick with my \$600,000 and have somebody with property  
16 post the property as collateral. All the other  
17 conditions have been agreed upon so let's get it  
18 written up and let's get it signed. Nobody is here  
19 today so I would imagine you two days to get people to  
20 sign, and I imagine that you need the week -- I don't  
21 know how you post property in Atlanta but you'll figure  
22 that out.

23 MR. KLUGMAN: Your Honor, can I just confer  
24 with the government about the timing, to see if we can  
25 reach an agreement?

1 THE COURT: Certainly.

2 (Mr. Klugman is conferring with the  
3 government.)

4 MR. KLUGMAN: Your Honor, the brother in  
5 Atlanta will be able to sign within the next two days.  
6 Given the holiday week and the brother in Los Angeles  
7 has a busy medical practice, we would ask for the end  
8 of the Christmas week, which is the end of next week.  
9 I think the government would like the end of this week.  
10 We would also ask for the end of next week --

11 THE COURT: I'm sorry, I'm so confused.

12 MR. KLUGMAN: Sure.

13 THE COURT: I thought Christmas was the end  
14 of this week because I'm out on Sunday, so I thought  
15 that ends Sunday is the end of the Christmas week.

16 MR. KLUGMAN: So basically, a week from  
17 Friday is what we were -- Hanukkah and Christmas are  
18 next week. If the Court insists on Friday for --

19 THE COURT: This is how I'm going to say it.  
20 By next Wednesday, the brother in L.A. has to sign. By  
21 two days from now, the brother in Atlanta has to sign.  
22 I think it's the 28<sup>th</sup>, is it, the Wednesday of next  
23 week?

24 MR. KLUGMAN: That's correct.

25 THE COURT: So by that same date, the

1 confession of judgment on the property.

2 MR. KLUGMAN: Thank you, your Honor.

3 THE COURT: Okay? Is the bond prepared?

4 (The clerk is preparing the bond.)

5 THE COURT: Mr. Small, you understand that  
6 this is a \$600,000 bond. You'll stay in the Eastern  
7 and Southern Districts of New York and New Jersey.  
8 Your attorney will tell you what counties that means.  
9 You cannot leave the jurisdiction as set forth in the  
10 order without permission of the Court.

11 Do you understand that?

12 DEFENDANT SMALL: Yes, I do, your Honor.

13 THE COURT: You shall not speak to any of  
14 the codefendants except in the presence of counsel and  
15 you cannot contact or associate with investors in  
16 Platinum Partners.

17 Do you understand that?

18 DEFENDANT SMALL: I do.

19 THE COURT: Your passport has been  
20 surrendered. That's been confirmed?

21 MR. PAES: Yes, your Honor.

22 MS. COOLEY: Yes, your Honor.

23 THE COURT: And you'll not apply for  
24 another, and you're placed under the express  
25 supervision of Pretrial Services, subject to random

1 visits by Pretrial Services at your home or place of  
2 work, and you must report to Pretrial Services as  
3 directed. You will have the one brother in Georgia to  
4 sign this bond by 12/21 and the other brother in  
5 California to sign by 12/28. The premises located at  
6 342 Ashford Circle, Dunwoody, Georgia will be posted as  
7 a collateral so a confession of judgment will be filed  
8 on or before 12/28.

9 Do you understand that?

10 DEFENDANT SMALL: Yes, I do.

11 THE COURT: We will fax this to the closest  
12 courts to your brother for them to sign but I need to  
13 make sure you understand that if for any reason you  
14 don't come back to court when you're directed to do so,  
15 agents will be dispatched. You'll be placed under  
16 arrest. You'll be brought back to the courthouse and  
17 the likelihood is you will not be released again  
18 pending your trial on these charges.

19 Do you understand that?

20 DEFENDANT SMALL: Yes, I do, your Honor.

21 THE COURT: If you commit any other crime  
22 while you're out on bail, there can be enhanced  
23 penalties for whatever that crime is that you commit.  
24 In New York, if you commit a felony, they could add ten  
25 years on because you committed the crime while out on

1 bail.

2 Do you understand that?

3 DEFENDANT SMALL: Yes, I do, your Honor.

4 THE COURT: If you don't come back, in  
5 addition to the charges that you face, you could be  
6 charged with the separate federal crime of bail  
7 jumping. Bail jumping is punishable by up to ten years  
8 in prison, even if you are never convicted of the crime  
9 for which you stand accused today. If you don't come  
10 back to court and they have to find you to bring you  
11 back, you can be prosecuted and convicted of bail  
12 jumping.

13 Do you understand that?

14 DEFENDANT SMALL: Yes, I do.

15 THE COURT: Then I'll ask you to sign this  
16 if you agree to come back whenever directed to do so  
17 and to all the other conditions set forth on the  
18 record.

19 MR. KLUGMAN: I just want to confirm with  
20 the Court's clerk that a copy of this will be available  
21 in Atlanta by Wednesday.

22 THE CLERK: Yeah. Send me the stuff. I'm  
23 going to email or fax them to the person.

24 MR. KLUGMAN: We'll reach out and if there's  
25 an issue, we'll let the government know.



1           THE COURT: Mr. Small, do you understand  
2 you've signed and you must come back whenever directed?  
3 Do you understand?

4           DEFENDANT SMALL: Yes, your Honor.

5           THE COURT: Then I'm signing that you should  
6 be released. Was there anything else that needed to be  
7 addressed with respect to Mr. Small today, Mr. Paes?

8           MR. PAES: No, your Honor.

9           THE COURT: Anything further, Mr. Klugman?

10          MR. KLUGMAN: No, thank you very much, your  
11 Honor. Have a happy holiday.

12          THE COURT: Happy holiday to everybody.  
13 Thank you. This matter is adjourned.

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18 I certify that the foregoing is a correct  
19 transcript from the electronic sound recording of the  
20 proceedings in the above-entitled matter.  
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25 ELIZABETH BARRON

December 21, 2016